

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

MARTIN O. LONG,)	
)	
Plaintiff,)	
)	
vs.)	CASE NO. 2:06CV816-MHT
)	
STATE FARM FIRE AND CASUALTY)	
COMPANY,)	
)	
Defendant.)	

**MOTION FOR EXTENSION OF TIME TO
RESPOND TO DEFENDANT’S SUMMARY JUDGMENT MOTION**

Comes now the Plaintiff in the above-styled cause and pursuant to FRCP 56(f) moves this Court to enter an order extending the time for the Plaintiff to respond to Defendant’s Motion for Summary Judgment. As grounds for this Motion, Plaintiff shows to the Court the following:

1. The Defendant filed a Motion for Summary Judgment on March 16, 2007.
2. Plaintiff’s brief in opposition to Defendant’s Motion for Summary Judgment is due on April 9, 2007.
3. Plaintiff’s counsel has been trying to obtain the depositions of State Farm’s claims personnel and corporate representative(s) but due to scheduling conflicts, the Defendant is unable to produce these witnesses for deposition before the date set for the Plaintiff’s response to Defendant’s Motion for Summary Judgment.
4. The Plaintiff cannot present by affidavit all of the facts essential to defend his claims without the depositions of the State Farm claims personnel and corporate

representative(s). FRCP Rule 56(f) provides that “should it appear from the affidavits of a party opposing the motion that the party cannot for reasons stated presented by affidavit facts essential to justify the party’s opposition, the Court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as it just.” The affidavit of F. Tucker Burge, counsel for the Plaintiff, is attached to this motion and confirms that the Plaintiff has not had an opportunity to obtain the discovery necessary to oppose this motion and that the Plaintiff would be unduly prejudiced for this motion to be heard before he has had an opportunity to obtain this evidence through discovery.

5. Discovery in this action does not conclude until May 31, 2007. The Plaintiff has been trying to schedule numerous depositions with the Defendant between now and that time and will be prepared to oppose the motion upon completion of discovery.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully moves the Court pursuant to FRCP 56(f) to continue the Defendant’s Motion for Summary Judgment and to extend the Plaintiff’s time to respond to that Motion until discovery is completed on May 31, 2007.

Respectfully submitted,

s/F. Tucker Burge
F. TUCKER BURGE
BURGE & BURGE
2001 Park Place #850
Birmingham, AL 35203
(205)251-9000
(205)323-0512 (Facsimile)

CERTIFICATE OF SERVICE

I hereby certify that I have this 2nd day of April, 2007, electronically filed the above and foregoing document with the Clerk of Court using the CM/ECF system which will send notification of such filing to James B. Newman, Esq., Helmsing, Leach, Herlong, Newman & Rouse, Post Office Box 2767, Mobile, AL 36652.

s/ F. TUCKER BURGE

OF COUNSEL

STATE OF ALABAMA

JEFFERSON COUNTY

AFFIDAVIT OF F. TUCKER BURGE

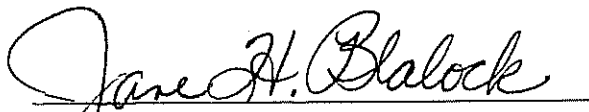
Before me, the undersigned for said County and in said State, personally appeared F. Tucker Burge, who is known to me and who, after first being duly sworn, deposes and says:

My name is F. Tucker Burge. I am over the age of 21 and have personal knowledge of the facts contained in this affidavit. I am counsel for Plaintiff Martin Long in the above-styled action. Discovery does not end in this case until May 31, 2007. The Plaintiff has been attempting to obtain deposition dates for the Defendant's claims representatives and corporate representative(s) but due to scheduling conflicts those depositions have not been taken at this time. This is a claim for breach of two insurance contracts and bad faith refusal to pay. It is vital to the Plaintiff's case and the Plaintiff's ability to effectively refute the Defendant's summary judgment motion to obtain evidence from the Defendant's claims representatives and corporate representative(s). The Plaintiff would be unduly prejudiced to have the Defendant's Motion for Summary Judgment heard before he has had the opportunity to obtain that evidence and before the time for obtaining such discovery has expired.


F. TUCKER BURGE

Sworn to and subscribed before me this

2nd day of April, 2007.


Notary Public
My Commission Expires: 5/11/2010